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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191120
Party	Defendant Sekses Distribution, LLC
Correspondence Address	Ellie Hourizadeh McDermott Will & Emery LLP 2049 Century Park East, 38th Floor Los Angeles, CA 90067 UNITED STATES
Submission	Other Motions/Papers
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Date	07/08/2010
Attachments	Sekses.pdf (4 pages)(53275 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EDDIE HAHM,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91191120
)	
SEKSES DISTRIBUTION, LLC)	
)	
Applicant.)	

RE: Application No. 77/576,111
MARK: COMU E and Design
Filed: September 22, 2008
Published: January 20, 2009

Application No. 77/560,875
MARK: COMUNE (with a reversed letter "N")
Filed: September 2, 2008
Published: January 20, 2009

MOTION FOR JUDGMENT FOR HAHM'S FAILURE TO PROVE CASE

Sekses Distribution, LLC, a California limited liability company with a principal place of business at 736 E 29th Street, Los Angeles, California 90011 ("Applicant"), by and through its attorneys, hereby requests an order dismissing the opposition on the grounds that Eddie Hahm ("Opposer") has failed to prosecute its action against Applicant.

The grounds for the request for a notice of default are as follows:

1. On July 20, 2009, Opposer filed a Notice of Opposition to Application No. 77/576,111 for the design mark COMU E and Application No. 77/560,875 for the design mark COMUNE with a reversed letter "N" ("Notice of Opposition").
2. On August 31, 2009, Applicant filed an Answer to the Notice of Opposition.

2. Discovery opened on September 29, 2009. Initial disclosures were due on September 28, 2009 and expert disclosures were due on October 28, 2009. Opposer did not provide any initial or expert disclosures. Opposer did not engage in any discovery.

3. Opposer's pretrial disclosures were due on May 11, 2010. Opposer did not provide any pretrial disclosures.

4. Opposer's 30 day trial period ended on June 25, 2010. No extension of time was granted to Opposer. Opposer did not take any testimony or offer any evidence during its trial period.

5. Pursuant to 37 CFR § 2.132(a) and TBMP § 534.02, a motion for judgment for involuntary dismissal for failure to take testimony must be filed after the plaintiff's testimony period has expired and before the opening of the testimony period for the moving party.

6. Applicant's pretrial disclosures are due on July 10, 2010. Accordingly, Applicant's testimony period had not yet commenced. Thus, Applicant's motion is timely.


7. Opposer cannot offer evidence to establish good and sufficient cause or excusable neglect sufficient to demonstrate why judgment should not be rendered against Opposer.

8. Accordingly, this motion should be granted and the Notice of Opposition should be dismissed with prejudice. See 37 CFR §2.132(a).

The requisite filing fee prescribed by 37 C.F.R. § 2.6(a)(17) should be charged to Deposit Account No. 501946. If there are any additional fees due in connection with this Notice of Opposition, they should also be charged to Deposit Account No. 501946, and any excess fees should be credited to same. All correspondence relating to this matter should be directed to the undersigned attorneys for Applicant.

Respectfully submitted,

SEKSES DISTRIBUTION, LLC

By: 
Ellie Hourizadeh
Attorneys for Applicant


Dated: July 8, 2010

MCDERMOTT WILL & EMERY LLP
2049 Century Park East, 38th Floor
Los Angeles, CA 90067-3208
Telephone: (310) 277-4110

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **MOTION FOR JUDGMENT FOR HAHM'S FAILURE TO PROVE CASE** upon Applicant by depositing one copy thereof via First Class Mail, in the United States mail, postage prepaid, on **July 8, 2010** addressed as follows:

**Eddie Hahm
111 West Washington Blvd.
Los Angeles, CA 90015**

By: 

Ellie Hourizadeh